

ORIGINAL

FILED

March 6 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 08-0499

STATE OF MONTANA,

Plaintiff and Appellee,

v.

DAVID W. GUNDERSON,

Defendant and Appellant.

FILED

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

MOTION TO WITHDRAW AS COUNSEL OF RECORD

COMES NOW, Koan Mercer, counsel of record for Defendant and Appellant, and respectfully requests an order from this Court allowing him to withdraw as counsel of record in the above entitled matter. Counsel has determined that an appeal would be frivolous or wholly without merit after reviewing the entire record and researching applicable statutes, case law, and rules. The Defendant/Appellant has been advised of counsel's decision and of his right to file a response to this motion. Counsel will send the file and transcripts in the matter to the Defendant/Appellant at his written request so that he can file an appropriate response to this motion.

A brief in support of this motion has been filed simultaneously with this motion.

Opposing counsel has been contacted regarding this motion and does not object.

Respectfully submitted this 6th day of March, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
301 South Park, Room 568
P.O. Box 200145
Helena, MT 59620-0145

By: 

 KOAN MERCER

Assistant Appellate Defender

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion to Withdraw as Counsel of Record to be mailed to:

STEPHEN BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

DENNIS PAXINOS
Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107-5025

DAVID W. GUNDERSON 11820
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

DATED: _____

3-6-2009 _____ 